IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 9813 OF 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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TOURISM CORPORATION OF GUJARAT LTD. - Petitioner(s)
Versus
JUNAGARH JILLA MAZDOOR SANGH - Respondent(s)

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Appearance :
Shri Nagesh C. Sood for Petitioner(s).
Shri Murli Devnani for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 12/09/2007

ORAL JUDGMENT

The petitioner, being aggrieved by the award dated 24th April, 2000 passed by the learned Presiding Officer, Labour Court,

Junagadh in Reference (LCD) No.21 of 1990 [Reference (LCD) No.58 of 1987 - Old], is before Court under Article 227 of the Constitution of India.

2. The learned Counsel for the parties submitted that the learned Court below misdirected itself in making the order in relation to regularisation of the workmen simply on the ground that they had completed 240 days as workmen. The parties submitted that the matter be remanded back to the learned Court below with a direction to examine the real question that whether the staffing pattern provides for such post and whether the persons, who are working for 10 to 20 years under the special circumstances of the case, are entitled to be regularised even in absence of the post, with a direction to the respondents to make an application to the Government for creation of the post.

3. In view of the said submission, the award dated 24th April, 2000 passed by the learned Labour Court, Junagadh in Reference (LCD) No.21 of 1990 [(LCD) No.58/1987 – Old] is hereby quashed and set aside. The matter is remanded back to the learned Court below with a direction to re-decide the matter after giving due opportunity to the parties to lead evidence. If the parties ask for amendment of their pleadings, the learned Court below shall grant such permission.

4. The learned Court below shall direct itself to consider the real question in controversy and would not regularise the employees simply because they had worked for 240 days because the person, who works for 240 days in twelve calendar months preceding the date of retrenchment/termination, would be entitled to certain protection against retrenchment, etc., but, Section 25-F of the Industrial Disputes Act, 1947 would not provide any foundation in favour of such workmen to ask for regularisation. The parties present in the Court shall appear before the learned Labour Court on 26th October, 2007. It shall be the duty of the parties to file a copy of this order before the learned Court below, enabling it to know as to what that Court is required to do. The learned Labour Court shall finally decide the matter within a period of ten months from the date of appearance of the parties.

5. The petition to the extent indicated above is allowed. Rule is made absolute. No costs.

[R.S.Garg, J.]

*kamlesh**